



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB1878

Introduced 1/10/2008, by Sen. Iris Y. Martinez

#### SYNOPSIS AS INTRODUCED:

820 ILCS 55/12

Amends the Right to Privacy in the Workplace Act. Provides that until any Employment Eligibility Verification System, including the E-Verify program and the Basic Pilot program, as authorized by 8 U.S.C. 1324a, Notes, Pilot Programs for Employment Eligibility Confirmation (enacted by PL 104-208, div. C, title IV, subtitle A), is able to automatically verify the work-authorization status of 99% of employees: (1) employers are discouraged from participating in any Employment Eligibility Verification System, unless otherwise required by federal law; and (2) the State of Illinois shall not participate in any Employment Eligibility Verification System, unless otherwise required by federal law. Effective immediately.

LRB095 14852 RLC 40793 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Right to Privacy in the Workplace Act is  
5 amended by changing Section 12 as follows:

6 (820 ILCS 55/12)

7 Sec. 12. Use ~~Restrictions on use~~ of Employment Eligibility  
8 Verification Systems.

9 (a) Until such time as any Employment Eligibility  
10 Verification System, including the E-Verify program and the  
11 Basic Pilot program, as authorized by 8 U.S.C. 1324a, Notes,  
12 Pilot Programs for Employment Eligibility Confirmation  
13 (enacted by PL 104-208, div. C, title IV, subtitle A), is able  
14 to automatically verify the work-authorization status of 99% of  
15 employees:

16 (1) employers are discouraged from participating in  
17 any Employment Eligibility Verification System, unless  
18 otherwise required by federal law; and

19 (2) the State of Illinois shall not participate in any  
20 Employment Eligibility Verification System, unless  
21 otherwise required by federal law ~~Employers are prohibited~~  
22 ~~from enrolling in any Employment Eligibility Verification~~  
23 ~~System, including the Basic Pilot program, as authorized by~~

~~8 U.S.C. 1324a, Notes, Pilot Programs for Employment Eligibility Confirmation (enacted by PL 104-208, div. C, title IV, subtitle A), until the Social Security Administration (SSA) and Department of Homeland Security (DHS) databases are able to make a determination on 99% of the tentative nonconfirmation notices issued to employers within 3 days, unless otherwise required by federal law.~~

(b) Subject to subsection (a) of this Section, an employer who enrolls in the Basic Pilot program is prohibited from the Employment Eligibility Verification Systems, to confirm the employment authorization of new hires unless the employer attests, under penalty of perjury, on a form prescribed by the Department of Labor:

(1) that the employer has received the Basic Pilot training materials from DHS, and that personnel who will administer the program have completed the Basic Pilot Computer Based Tutorial (CBT); and

(2) that the employer has posted the notice from DHS indicating that the employer is enrolled in the Basic Pilot program, the anti-discrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice, and the anti-discrimination notice issued by the Illinois Department of Human Rights (IDHR).

(c) Responsibilities of employer using Employment Eligibility Verification Systems.

1           (1) The employer shall display the notices supplied by  
2 DHS, OSC, and IDHR in a prominent place that is clearly  
3 visible to prospective employees.

4           (2) The employer shall require that all employer  
5 representatives performing employment verification queries  
6 complete the CBT. The employer shall attest, under penalty  
7 of perjury, on a form prescribed by the Department of  
8 Labor, that the employer representatives completed the  
9 CBT.

10          (3) The employer shall become familiar with and comply  
11 with the Basic Pilot Manual.

12          (4) The employer shall notify all prospective  
13 employees at the time of application that such employment  
14 verification system may be used for immigration  
15 enforcement purposes.

16          (5) The employer shall provide all employees who  
17 receive a tentative nonconfirmation with a referral letter  
18 and contact information for what agency the employee must  
19 contact to resolve the discrepancy.

20          (6) The employer shall comply with the Illinois Human  
21 Rights Act and any applicable federal anti-discrimination  
22 laws.

23          (7) The employer shall use the information it receives  
24 from SSA or DHS only to confirm the employment eligibility  
25 of newly-hired employees after completion of the Form I-9.  
26 The employer shall safeguard this information, and means of

1 access to it (such as passwords and other privacy  
2 protections), to ensure that it is not used for any other  
3 purpose and as necessary to protect its confidentiality,  
4 including ensuring that it is not disseminated to any  
5 person other than employees of the employer who need it to  
6 perform the employer's responsibilities.

7 (d) Preemption. No unit of local government, including a  
8 home rule unit, may require any employer to use an Employment  
9 Eligibility Verification System, including under the following  
10 circumstances:

- 11 (1) as a condition of receiving a government contract;  
12 (2) as a condition of receiving a business license; or  
13 (3) as penalty for violating licensing or other similar  
14 laws.

15 This subsection (d) is a denial and limitation of home rule  
16 powers and functions under subsection (h) of Section 6 of  
17 Article VII of the Illinois Constitution.

18 (Source: P.A. 95-138, eff. 1-1-08.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.